

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

RHONDA FLEMING

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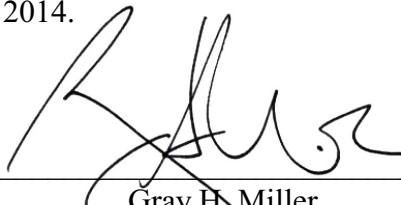
CRIMINAL ACTION NO. H-07-513

ORDER

Pending before the court are the following: (1) defendant Rhonda Fleming's ("Fleming") brief contesting the garnishment proceeding on Sixth Amendment grounds (the "brief"), Dkt. 870; (2) Fleming's motion for a writ of mandamus (the "writ motion"), Dkt. 892; and (3) Fleming's application for emergency injunctive relief (the "TRO application"). Dkt. 894.

First, Fleming's brief raises a collateral attack to the judgment and order of restitution, which is impermissible in a garnishment proceeding. *United States v. Minneman*, 38 F. App'x 321, 323 (7th Cir. 2002). Moreover, to the extent the court considers Fleming's constitutional argument, it fails on the merits because Fleming's request at sentencing was limited in scope and for hybrid representation; it was not a revocation of her previous *Faretta* waiver or indicative of changed circumstances. *United States v. Tate*, 2013 WL 3456742, at *2 (5th Cir. July 10, 2013). Second, as to the writ motion and the TRO application, the Fifth Circuit has already found that Fleming's challenges to her civil forfeiture judgment are barred by *res judicata*, and this court thus declines to consider the renewed forfeiture objections. *Fleming v. United States*, No. 13-10042, 2013 WL 4029364, at *2 (5th Cir. Aug. 7, 2013). Fleming's objections in her brief (Dkt. 870) are therefore **OVERRULED**, and the writ motion and TRO application (Dkts. 892, 894) are **DENIED**.

Signed at Houston, Texas on January 24, 2014.



Gray H. Miller
United States District Judge